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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/992,236 | 11/06/2001 | Michael J. Muller | LOT9-2001-0012 | 5384 |
| 21127 | 7590 | 06/05/2006 | EXAMINER | |
| KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109 | | | ROSWELL, MICHAEL | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2173 | |

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/992,236 | Applicant(s) MULLER, MICHAEL J. | |
| | Examiner Michael Roswell | Art Unit 2173 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20061217</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 7-21, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sass et al (US Patent 6,769,028), hereinafter Sass, and De Boor et al (US Patent 6,317,781), hereinafter De Boor.

Referring to claims 1, 12, 16-17, 24, and 26, Sass teaches a computer program product, apparatus, program code, and a method for collecting user evaluation feedback in a computer system having a display and capable of generating a user interface through which a user may interact with the system (i.e. Figs. 3-4).

Sass teaches:

(A) displaying on the graphic user interface an evaluation component (i.e. media player) comprising at least one displayed command option (i.e. col. 8, lines 22-33) and a plurality of evaluation feedback options (i.e. smiley icon and frowny icon; col. 9, lines 15 and 22);

(B) receiving user selection criteria for one of the evaluation feedback option(s) (col. 9, lines 10-30); and

(C) initiating execution of the displayed command option upon receipt of the user selection criteria identifying one of the plurality of evaluation feedback options (i.e. col. 9, lines 25-30).

As another example, see col. 16, lines 24-33, which describes how the selection of radio stations is used as feedback to determine what stations appeal to a user.

While Sass fails to explicitly teach displaying on the graphic user interface a command option associated with the feedback options, De Boor teaches a graphical user interface for a hand-held device similar to that of Sass, wherein the interface displays the command options being associated with a particular function button (col. 9, lines 14-22). De Boor further states that the functionality of the keys may be dynamically updated based on user context (col. 10, lines 30-33). Furthermore, Sass teaches associating functions with the evaluation icons, such as switching streams in response to a negative evaluation, or referring the user to a product web site for a positive evaluation, at col. 9, lines 19-29. Therefore, it would have been obvious to one of ordinary skill in the art to combine the function messages of De Boor to display the evaluation functions of Sass. One would be motivated to make such a combination for the advantage of allowing a user to know exactly what will occur upon pressing a button or actuating an icon.

Referring to claims 2, 13, 18, 25, and 27, Sass discloses:

(D) modifying the display of the evaluation component on the graphic user interface, taught as the changing of the station in relation to a negative evaluation, or referring the user to a product web site for a positive evaluation, which changes the interface for evaluation. See col. 9, lines 19-29.

Referring to claims 3, 14, and 19, Sass discloses that step (C) further comprises:

(C1) initiating modification of counter value associated with the selected evaluation feedback option. See col. 9, lines 30-39, which describes collecting (counting) the feedback data for several users.

Referring to claims 4, 15, and 20, Sass discloses that step (C) further comprises:

(C1) initiating modification of a record value (i.e. within the personal profile) associated with the selected evaluation feedback option. See col. 9, lines 16-21.

Referring to claims 5 and 21, Sass discloses that step (C) further comprises:

(C2) transmitting the modified record value associated with the selected evaluation feedback option to a database (i.e. the database that stores the personal profiles). See col. 9, lines 16-21 and col. 11, line 65 – col. 12, line 10.

Referring to claims 7 and 23, Sass discloses that step (A) further comprises:

(A1) rendering the evaluation component with a separate user selectable sub region for the displayed command option and a separate user selectable sub region for the plurality of evaluation feedback options. For example, each of the icons described in col. 8, lines 22-33 are command options with a separate selectable sub region than icons 390 (smiley and frowny icons).

Referring to claim 8, Sass discloses that the plurality of evaluation feedback options are rendered as icons. See Fig. 3, 390 and col. 9, lines 15 and 22.

Referring to claim 9, Sass discloses that the evaluation component is rendered a part of an application user interface (media player; Fig. 3, 300).

Referring to claim 10, Sass discloses the evaluation component is rendered as part of a web page. See col. 8, line 54 – col. 9, line 40, which describe the integration of the evaluation icons and web pages.

Referring to claim 11, Sass discloses that the evaluation component is rendered as part of a browser application. See col. 6, line 50 – col. 7, line 4, which describes how the media player is an interface for Internet content.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7-21, and 23-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2173

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Roswell
5/24/2006



TADESSE HAILU
Patent Examiner